

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1407, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 18, between lines 8 and 9, begin a new paragraph and insert:
- 2 "SECTION 13. IC 27-1-12.7 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]:
- 5 Chapter 12.7. Funding Agreements
- 6 Sec. 1. As used in this chapter, "funding agreement" means an
- 7 agreement that:
- 8 (1) is issued by a life insurance company to a holder;
- 9 (2) authorizes a life insurance company to accept funds; and
- 10 (3) provides for an accumulation of the funds for the purpose
- 11 of making one (1) or more payments at future dates in
- 12 amounts that are not based on mortality or morbidity
- 13 contingencies of the holder of the funding agreement.
- 14 Sec. 2. As used in this chapter, "holder" means a person
- 15 described in section 5 of this chapter that is issued a funding
- 16 agreement by a life insurance company.
- 17 Sec. 3. As used in this chapter, "life insurance company" means
- 18 a life insurance company authorized to issue a product described
- 19 in Class 1(c) of IC 27-1-5-1.
- 20 Sec. 4. As used in this chapter, "optional modes of settlement"

means the manner in which the funding agreement is structured to repay interest and principal to the holder.

Sec. 5. A life insurance company may issue or issue for delivery in Indiana a funding agreement to the following:

(1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of an insurance business.

(2) A person who uses the funding agreement for the purpose of funding:

(A) benefits under an employee benefit plan (as defined in the federal Employee Retirement Security Act of 1974, 29 U.S.C. 1001 et seq.);

(B) the activities of a nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or a similar nonprofit organization domiciled in a foreign country;

(C) a program of:

(i) the United States government;

(ii) a state government;

(iii) a political subdivision;

(iv) a foreign country; or

(v) an agency or instrumentality of the United States or a state government, a political subdivision, or a foreign country;

(D) an agreement providing for periodic payments in satisfaction of a claim;

(E) a program of an institution with assets exceeding twenty-five million dollars (\$25,000,000);

(F) a program in which a business entity, including a trust:

(i) purchases and holds funding agreements; and

(ii) issues securities by using the funding agreement to finance or collateralize the securities; or

(G) any program or activity substantially similar to a program or an activity described in clauses (A) through (F) that is first authorized by the commissioner.

Sec. 6. The issuance of a funding agreement:

(1) constitutes an activity necessary, convenient, or expedient to the business of a life insurance company under IC 27-1-7-2;

- (2) is not insurance under IC 27-1-5-1;**
- (3) is not a security (as defined in IC 23-2-1-1(k)); and**
- (4) does not constitute gross premium for taxation purposes under IC 27-1-18-2.**

Sec. 7. An amount may not be guaranteed or credited under a funding agreement except:

- (1) upon reasonable assumptions as to investment income and expenses; and**
- (2) on a basis equitable to all holders of funding agreements of a given class.**

Sec. 8. An amount paid to a life insurance company and proceeds applied to amounts paid under optional modes of settlement under a funding agreement may be allocated by the insurer to one (1) or more segregated asset accounts in the manner described in Class 1(c) of IC 27-1-5-1.

Sec. 9. The commissioner may establish reasonable conditions or adopt rules under IC 4-22-2 regarding:

- (1) reserve amounts to be maintained by a life insurance company for funding agreements;**
- (2) accounting and reporting of funds credited under funding agreements; and**
- (3) other matters regarding funding agreements the commissioner considers necessary, proper, and advisable.**

Sec. 10. Notwithstanding any other provision of law:

- (1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;**
- (2) a funding agreement is not considered a covered policy under IC 27-8-8-1(a); and**
- (3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40."**

Page 67, line 18, after "paid" insert "to that insurance producer".

Page 70, line 20, strike "him" and insert "the liquidator".

- 1 Page 83, after line 22, begin a new paragraph and insert:
- 2 "SECTION 88. **An emergency is declared for this act.**".
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1407 as printed January 22, 2003.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

Paul

Chairperson